

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JUAN LUIS LEONOR,

Plaintiff,

vs.

FRED BRITTEN, et al.,

Defendants.

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4:04cv3330

MEMORANDUM AND ORDER

This matter is before the court on filing no. 94, the Motion to Alter or Amend Judgment filed by the plaintiff, Juan Luis Leonor, a prisoner in the custody of the Nebraska Department of Correctional Services ("DCS"). The plaintiff sought \$13 million, release from prison and injunctive relief pursuant to 42 U.S.C. § 1983, alleging that the defendants, employees of DCS, violated his right of access to the courts by denying the plaintiff the time he sought in the prison law library at the Tecumseh State Correctional Institution ("TSCI"), thereby impairing the plaintiff's ability to litigate matters in his state appellate and postconviction proceedings.

In his pending motion, the plaintiff disagrees with my judgment that the defendants, in their individual capacities, are entitled to qualified immunity from his claims for damages. However, I found that the law is not clearly established regarding the amount of time a prisoner is required to receive in a prison law library in the plaintiff's circumstances, so that the 30 hours allotted to the plaintiff did not clearly violate the United States Constitution. I also found that, insofar as the plaintiff sought release from imprisonment, release from custody is not among the available remedies in a civil rights case. For those reasons and the others discussed in my Memorandum and Order (filing no. 92) accompanying the Judgment in this case, the plaintiff's Motion to Alter or Amend Judgment (filing no. 94) is denied.

SO ORDERED.

October 30, 2006.

BY THE COURT:

s/ Richard G. Kopf
United States District Judge